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OFFICE OF PETITIONS

In re Application of :
Suh : DECISION ON PETITION
Application No. 09/736,226 :
Filed: December 15, 2000 :
Atty. Dkt. No.: Q42581 :

This decision is in response to the petition to revive under 37 CFR 1.137(a), filed November 26, 2007. This matter is, sua sponte, treated also under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application was held abandoned August 11, 2006 for failure to timely reply to Notice to File Missing Parts of Reissue Application (Notice), mailed March 10, 2006. The Notice set a two month shortened statutory period of time for reply. A reply along with petition for three month extension of time was received August 10, 2006. Notice of Abandonment was mailed September 24, 2007.

DECISION UNDER 37 CFR 1.181

Petitioner argues that a reply to the Notice was filed August 10, 2006. Petitioner has submitted a copy of the reply alleged submitted August 10, 2006 along with a return postcard date stamped by the USPTO.

A review of the record reveals that a reply to the Notice was received August 10, 2006, as argued by petitioner. The reply consisted of a petition for three month extension of time, a copy of the Notice, a page entitled "RESPONSE TO NOTICE TO FILE MISSING PARTS OF REISSUE APPLICATION FILED UNDER 37 CFR 1.63," a page entitled "REMARKS," a page entitled "AMENDMENTS TO THE SPECIFICATION," and a page entitled "AMENDMENT UNDER 37 C.F.R. § 1.173(B)."

A copy of the reissue specification in the form of a copy of the patent is not amongst the application papers entered into the record on August 10, 2006.

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Nevertheless, the postcard receipt submitted herewith date stamped by the Office acknowledges receipt of a copy of the reissue specification. Accordingly, the postcard serves as prima facie evidence of receipt of the reissue specification.

In view of the petition and supporting evidence, it is concluded that the Notice was not received. In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

DECISION UNDER 37 CFR 1.137(a)

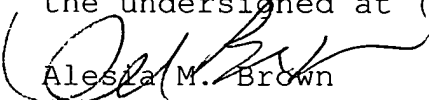
A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

In view of the withdrawal of the holding of abandonment, the petition under 37 CFR 1.137(a) is hereby **DISMISSED AS MOOT**.

No petition fee has been charged in connection with this matter.

This application will be forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.


Alesia M. Brown
Petitions Attorney
Office of Petitions